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LETTER DATED 29 JUNE 1998 FROM THE PERMANENT REPRESENTATIVES OF BURKINA FASO, CUBA, THE LAO PEOPLE'S DEMOCRATIC REPUBLIC, MALAYSIA, SOUTH AFRICA AND ZIMBABWE TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

We refer to the forthcoming nineteenth review by the Security Council of the sanctions imposed on the Libyan Arab Jamahiriya at the beginning of July in accordance with Security Council resolutions 748 (1992) of 31 March 1992 and 883 (1993) of 11 November 1993 as a result of the dispute between the Libyan Arab Jamahiriya on the one hand and the United States of America and the United Kingdom of Great Britain and Northern Ireland on the other regarding the legal jurisdiction in trying the two suspects in the Pan Am flight 103 incident over Lockerbie, United Kingdom.

While the imposition of sanctions by the Security Council on one of the parties to the dispute was met with objection from the international comm[illegible]y and raised doubts about the legality of such sanctions, it has become cer[illegible] in view of the decisions of the International Court of Justice of 27 Februar[illegible]98 that there was no legal basis for the imposition of these sanctions, for the two decisions confirmed the jurisdiction of the International Court of Justice to deal with the dispute, and that the Court should be allowed to decide on the issue. The two decisions also confirmed that sanctions should not have been imposed in the first place, for they were imposed to circumvent the decisions of the Court on the dispute, and their continuation has no justification.

The majority of the membership of the United Nations emphasized during the public debate of the Security Council on 20 March 1998 the following:

1. The imposition of sanctions against one party to the dispute to satisfy the demands of the other parties was not justified, and thus the majority demanded that the sanctions should be lifted until the International Court of Justice decides on the substantive issues of the dispute;

2. Criticism of the way in which the Security Council renews the sanctions imposed on the Libyan Arab Jamahiriya every 120 days, in complete disregard of all the developments in the dispute since they were imposed the first time;

3. The lifting of the sanctions is logical, justified and a matter of urgent consideration;

4. The continuation of this situation, especially the disregard of the International Court of Justice and the will of the majority of the Member States, damages the prestige of this Organization and the credibility of its principal organs.

The Ministerial Conference of the Non-Aligned Movement, held in Cartagena, Colombia, from 18 to 20 May 1998, welcomed the decisions of the International Court of Justice. The ministers and heads of delegations called for the immediate suspension of the sanctions until the court decides on the issue. They recommended that the twelfth summit of the Movement take a decision not to continue compliance with the sanctions resolution on the basis of Article 25 of the Charter of the United Nations because they are in violation of Articles 27 (3), 32, 33, 36 and 94 of the Charter.

We, as members of the Committee of Six established by the Cartagena Ministerial Conference, and in the name of all the members of the Non-Aligned Movement, call upon the Security Council to suspend immediately the sanctions, and to await the substantive decision by the Court on the dispute. We call upon the States permanent members of the Security Council which are party to the dispute to have the ability to strike an equilibrium between considerations of national interest and their international responsibility, and not to impede the Security Council in taking the right decision, which represents the interest of the international community and expresses the will of the majority of Member States, on whose behalf the Security Council is supposed to act.

The resolutions adopted by the conferences of the Non-Aligned Movement in this regard are in fact in defence of the United Nations and its Charter. They are, at the same time, in defence of the decisions of the International Court of Justice and international law. Member States of the Non-Aligned Movement view the disregarding of the Court's decisions as well as ignoring the will of the international community as leading to a constitutional crisis that would involve the principal United Nations organs - the General Assembly, the International Court of Justice and the Security Council - thus damaging the credibility and the image of the United Nations.

In the light of all this, the majority of the Member States, led by the Non-Aligned Movement, expect the Security Council to take the necessary action to strengthen the United Nations and its credibility and act according to the will of the majority of United Nations Members, in accordance with the Charter.

Taking into consideration all of the above, we call upon the Security Council to:

1. Immediately lift the sanctions imposed on the Libyan Arab Jamahiriya by accepting one of the options submitted by the Organization of African Unity, the Arab League, the Non-Aligned Movement and the Organization of the Islamic Conference; or

2. Suspend the sanctions imposed on the Libyan Arab Jamahiriya pending the decision of the International Court of Justice on the question.

We would be grateful if you would have the present letter distributed as a document of the Security Council.

(Signed) Michel KAFANDO
Ambassador
Permanent Representative
of Burkina Faso

(Signed) Bruno RODRÍGUEZ-PARILLA
Ambassador
Permanent Representative
of Cuba

(Signed) Alounkèo KITTIKHOUN
Ambassador
Permanent Representative of the
Lao People's Democratic Republic

(Signed) HASMY Agam
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(Signed) Khiphusizi J. JELE
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of the Republic of South Africa

(Signed) Machievenyika Tobias MAPURANGA
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Permanent Representative
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